

MEMORANDUM OF LAW

DATE: May 5, 1988

TO: Will Sniffin, Deputy Director, Water
Production Division, Water Utilities
Department

FROM: City Attorney

SUBJECT: Use of PFD's for Boardsailing

You asked if we have any "recommendations" on the policy decision to use or not use PFD's (personal flotation devices) at water reservoirs.

I have reviewed the March 29, 1988 letter of Gary S. Elster, Esq. and his comments leave intact your managerial judgment on this issue. I am quick to caution that his discussion of California Government Code section 821.1 (natural condition immunity) is very cursory and irrelevant to your managerial decision. The government only loses its immunity for natural conditions "when its own conduct is partially responsible for inducing a person to be victimized by a dangerous condition of the nature of a hidden trap." *McCauley v. City of San Diego* (1987) 190 Cal.App.3d 981, 989. Accord, *Bartlett v. State of California* (1988) 199 Cal.App. 392, 399.

Therefore, you are free to exercise your managerial judgment on the issue of PFD's.

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

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